

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

HELENA AGRI-ENTERPRISES, LLC,

Plaintiff,

v.

GREAT LAKES GRAIN, LLC, et al.,

Defendants.

CASE NO. 1:18-CV-963

HON. ROBERT J. JONKER

ORDER

The Court has before it the parties' proposed partial Judgment resolving matters at issue on Plaintiff's Motion for Judgment on the Pleadings.

The Court seeks clarification on whether the parties are seeking entry of this partial Judgment under Rule 54(b). A portion of the draft suggests this is the parties' intention. In particular, the parties appear to provide for immediate execution. On the other hand, the parties recite repeatedly that the proposed partial judgment is "non-appealable." This could be read as a waiver of any right of appeal by any party on the partial judgment or it could reflect an intention that the parties mean to defer finality for at least some purposes, including appeal.

If the parties intend a Rule 54(b) partial judgment, this will need to be expressly recited and supported by facts of record. If the parties intend to waive appeal rights they would otherwise have, this should be expressly recited. And if the parties intend to have the Court shorten or eliminate the normal time for stay of execution under Rule 62(a), this, too, should be expressly recited.

Dated: February 20, 2019

/s/ Robert J. Jonker

ROBERT J. JONKER

CHIEF UNITED STATES DISTRICT JUDGE